IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 11557 of 2004

Between:

Lella Thirupathi Rayudu, S/o.Venkateswarlu, aged 45 years,
President of Inkollu Mandal, Parishad, Prakasam Dist.

..... PETITIONER

AND

1 The State Election Commission, rep.by its Secretary, Budda Bhavan,

Hyderabad.
2 The District Collector (Panchayath Wing) Prakasam District, Ongole.
3 The Revenue Divisional officer, (presiding officer for conducting a

meeting of No Confidence motion of Inkollu M.P) Ongole.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the impugned proceedings in Rc.No.601/2004 under Form No.V issued by the 3rd respondent herein dt.19-6-2004 convening a meeting of Mandal Parishad, Inkollu in the office of Mandal parishad, Inkollu on 8-7-2004 at 11.00 AM for considering the motion of No confidence against the petitioner herein as illegal, arbitrary and contrary to Articles 191, 243-F r/w 10th schedule and consequently to set aside the same and pass.

Counsel for the Petitioner : MR.K.ANANDA RAO, Advocate

Counsel for the Respondent No.1: MR.V.V.PRABHAKARA RAO, SC for State Election Commission.

Counsel for Respondent Nos.2 and 3 : The GP for Panchayat Raj & Rural Development

The Court at the admission stage made the following :

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development and with their consent the writ petition itself is taken up for final disposal at the admission stage.

The petitioner, claiming to be elected President of Inkollu Mandal Parishad, Prakasam District, filed this writ petition questioning the notice, dated 19.06.2004 issued by the third respondent for convening a meeting in connection with 'No confidence motion' proposed against him.

The petitioner alleges that in view of the provisions under Articles 191 and 102 read with 10th Schedule of the Constitution of India two MPTC members were ceased to be members of MPTC on account of their resignation to the primary membership of the political party on which ticket they were elected as such. It is alleged that without deciding the issue of their disqualification, the third respondent issued the impugned notice dated 19-06-2004 for convening a meeting on 08-07-2004 in connection with 'No confidence motion' proposed against the petitioner, inasmuch as the two MPTC members are disentitled to participate and vote in the proposed 'No confidence motion' by reason of their resignation to the primary membership of their political party. Assailing the impugned notice issued by the third respondent, the present writ petition is filed.

It may be noticed that no reference is made in Articles 191, 102 and 10th Schedule of the Constitution of India, about disqualification of members of Local Bodies, and no legislation is made to that effect in the Gram Panchayat Act. The disqualification as contended by the petitioner is attributable to their resignation to the political party to which they belonged, which does not deprive them of their right of membership as MPTC members.

In the above view of the matter, no relief as prayed for by the petitioner can be granted. The writ petition has no merit, and the same is accordingly dismissed. No

costs.

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N.V. RAMANA, J

08th July, 2004.

YS/SVV

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To

1 The Secretary, State Election Commission, Budda Bhavan,

Hyderabad.
2 The District Collector (Panchayath Wing) Prakasam District, Ongole.
3 The Revenue Divisional officer, (presiding officer for conducting a

meeting of No Confidence motion of Inkollu M.P), Ongole.

4 Two CCs to G.P. for Panchayat Raj, High Court Buildings, Hyderabad. 5 Two CD copies.